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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Dan Kikinis

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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT

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2424

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/854,339	Applicant(s) KIKINIS ET AL.	
	Examiner MICHAEL VAN HANDEL	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 8, 9, 12-14, 16, 19, 20, 23-25, 27, 30, 31 and 35-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8, 9, 12-14, 16, 19, 20, 23-25, 27, 30, 31, 35-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 11/04/2009. Claims **1-3, 5, 8, 9, 12-14, 16, 19, 20, 23-25, 27, 30, 31, 35-48** are pending. Claims **1, 5, 8, 9, 12, 13, 16, 19, 20, 23, 27, 30, 31, 35-40** are amended. Claims **4, 6, 7, 10, 11, 15, 17, 18, 21, 22, 26, 28, 29, 32-34** are canceled. Claims **41-48** are new.

Response to Arguments

2. Applicant's arguments regarding claims **1, 12, and 23**, filed 11/04/2009, have been considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims **1-3, 5, 8, 9, 12-14, 16, 19, 20, 23-25, 27, 30, 31, 36, 37, 39-48** are rejected under 35 U.S.C. 102(b) as being anticipated by Hoarty.

Referring to claims **1, 12, and 23**, Hoarty discloses a system/computer-implemented method/machine-readable storage medium, comprising:

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- a first unit (set top 13)(col. 5, l. 46-62 & Fig. 1) configured to generate an interactive three-dimensional (3-D) electronic programming guide (EPG), the 3-D EPG including a presentation of a virtual world having programming information and a layout (col. 19, l. 19-27 & Fig. 36);
- a database including a plurality of 3-D EPG worlds (Figs. 35-41), each 3-D EPG world is selectable (col. 18, l. 63-65) and includes a virtual world layout that provides a layout of the presented virtual world, wherein the first unit is further configured to allow selection of a 3-D EPG world from the database and modify the layout of the presented virtual world based on the virtual world layout of the selected 3-D EPG world (the user can navigate to different information services through the carousel display. The examiner interprets the carousel display and the information services menus, such as the program grid of Figure 36 to be 3-D EPG worlds)(Figs. 35-41).

Referring to claims **2**, **14**, and **24**, Hoarty discloses the system/computer-implemented method/machine-readable storage medium of claims 1, 13, and 23, respectively, wherein the system comprises a set-top box (col. 5, l. 50 & Fig. 1), a television (col. 8, l. 67 & col. 9, l. 1), or a VCR (col. 17, l. 11).

NOTE: The USPTO considers the applicant's "or" language to be anticipated by any reference containing any of the corresponding elements.

Referring to claims **3** and **25**, Hoarty discloses the system/machine-readable storage medium of claims 1 and 24, respectively, wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming information (col. 5, l. 46-62).

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Referring to claims **5**, **16**, and **27**, Hoarty discloses the system/computer-implemented method/machine-readable storage medium of claims 1, 12, and 23, respectively, wherein the database further includes at least one of a program event (Fig. 36), program schedule times (Fig. 36), program channel identification (Fig. 36), or program title (Fig. 36).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **8**, **19**, and **31**, Hoarty discloses the system/computer-implemented method/machine-readable storage medium of claims 1, 12, and 30, respectively, wherein the selected 3-D EPG world is selected by a user (col. 18, l. 63-67 & col. 19, l. 1-27).

Referring to claims **9**, **20**, and **30**, Hoarty discloses the system/computer-implemented method/machine-readable storage medium of claims 8, 19, and 29, respectively, wherein the virtual world layout of the selected 3-D EPG world is a matrix of rectangular boxes (Fig. 36).

Referring to claim **13**, Hoarty discloses the computer-implemented method of claim 12, wherein the database further includes a plurality of objects associated with current programming events (Fig. 36).

Referring to claims **36** and **39**, Hoarty discloses the system/computer-implemented method of claims 1 and 12, respectively, wherein the selected 3-D EPG world is selected on the basis of user's preferences (user choice)(col. 18, l. 63-67 & col. 19, l. 1-18).

Referring to claims **37** and **40**, Hoarty discloses the system/computer-implemented method of claims 1 and 12, respectively, wherein the selected 3-D EPG world is selected by a programmer (user choice)(col. 18, l. 63-67 & col. 19, l. 1-18).

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Referring to claim **41**, Hoarty discloses the system of claim 1, wherein the layout of the presented virtual world is comprised of environmental portions do not include programming information (Figs. 35-41).

Referring to claim **42**, Hoarty discloses the system of claim 1, wherein the plurality of 3-D EPG worlds includes a first world having a first layout, and a second world, having a second layout that is different from the first layout (Figs. 35-41).

Referring to claims **43**, **47**, and **48**, Hoarty discloses the system/computer-implemented method/machine-readable medium of claims 1, 12, and 23, respectively, wherein the database further includes localized interactive content, and the first unit is configured to generate the 3-D EPG based on localized interactive content (col. 18, l. 63-67 & col. 19, l. 1-18).

Referring to claim **44**, Hoarty discloses the system of claim 43, further including a user interface configured to allow a user to interact with the localized interactive content (Figs. 35-41).

Referring to claim **45**, Hoarty discloses the system of claim 43, wherein the database is configured to store localized interactive content in real-time (col. 8, l. 40-49).

Referring to claim **46**, Hoarty discloses the system of claim 1, wherein the database further includes electronic commerce objects, and the first unit is configured to generate the 3-D EPG based on electronic commerce objects (Fig. 35).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims **35, 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoarty in view of Rowe et al. (of record).

Referring to claims **35** and **38**, Hoarty discloses the system/computer-implemented method of claims 1 and 12, respectively. Hoarty further discloses allowing a user to search TV programming by subject (Fig. 37). Hoarty does not specifically disclose that the selected 3-D EPG world is selected on the basis of a user's age. Rowe et al. discloses searching television programming by children's content (col. 11, l. 22). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the TV subject searching of Hoarty to include searching by children's content, such as that taught by Rowe et al. in order to simplify the process of selecting programs of interest for each audience member (Rowe et al. col. 2, l. 14-16).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit
2424

MV